

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HOMESITE INSURANCE COMPANY, a  
Wisconsin stock insurance corporation,

Plaintiff,

v.

JOSEPH M. ZAJAC, a Washington resident;  
SUSAN P. ZAJAC, a Washington resident; THE  
JOSEPH M. ZAJAC AND SUSAN P. ZAJAC  
TRUST DATED APRIL 12, 2017, a Washington  
trust, WILLIAM FELDMANN, a Washington  
resident, and JANET FELDMANN, a  
Washington resident,

Defendants.

NO. 2:19-cv-01034 TSZ

**STIPULATED MOTION AND  
ORDER FOR LEAVE TO AMEND  
COMPLAINT**

**I. STIPULATED MOTION**

The parties hereto, Plaintiff Homesite Insurance Company (hereinafter “Homesite), Defendants Joseph M. Zajac, Susan P. Zajac, and the Joseph M. Zajac and Susan P. Zajac Trust Dated April 12, 2017 (collectively the “Zajacs”), and Defendants William Feldmann and Janet Feldmann (collectively the “Feldmanns”) by and through their undersigned counsel of record, submit this Stipulated Motion for Leave to permit Homesite to file its First Amended Complaint. As required by LCR 15, the proposed Amended Complaint is attached hereto as **Exhibit 1**.

This is an insurance coverage dispute between Homesite and the Zajacs for claims arising out of alleged misrepresentations made by the Zajacs in connection with the sale of real property to the Feldmanns. On or about March 14, 2019, the Feldmanns filed a complaint against the

1 Zajacs in King County Superior Court, captioned as *William and Janet Feldmann v. Joseph M.*  
2 *and Susan P. Zajac and The Joseph M. Zajac and Susan P. Zajac Trust Dated April 12, 2017,*  
3 Case No. 19-2-07340-3 SEA (hereinafter “Underlying Lawsuit”). In the Underlying Lawsuit,  
4 the Feldmanns allege that the Zajacs failed to disclose material facts regarding the property on  
5 the Property Disclosure Form and asserted claims against the Zajacs for negligent  
6 misrepresentation, fraudulent misrepresentation, and unjust enrichment.

7 Homesite filed this action on July 3, 2019, seeking a declaratory judgment from this  
8 Court that there is no coverage under the Zajacs’ homeowner’s insurance policy for any claims  
9 asserted against them in the Underlying Lawsuit. The Feldmanns then filed an amended  
10 complaint in the Underlying Lawsuit on September 20, 2019, to add a cause of action for  
11 fraudulent concealment against the Zajacs. Accordingly, Homesite would like to amend its  
12 complaint in the present lawsuit to add the newly alleged claim in the Underlying Lawsuit of  
13 fraudulent concealment to the claims for declaratory judgment in this lawsuit.

14 It is hereby stipulated by and between the parties, that Homesite may file the attached  
15 Amended Complaint.

16 DATED this 12th day of December, 2019.

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19 s/ Erin J. Varriano  
20 Erin J. Varriano, WSBA No. 40572  
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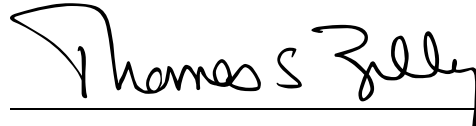
*Janet & William Feldmann*

1 **ORDER**

2 Pursuant to the parties' stipulation, docket no. 17:

- 3 1. Plaintiff, Homesite Insurance Company, is granted leave to amend its complaint;  
4 2. Plaintiff's First Amended Complaint shall be filed with the Court within three (3)  
5 days upon entry of this order; and  
6 3. Defendants will have fourteen (14) days from the filing of Plaintiff's First  
7 Amended Complaint to answer or otherwise respond.  
8

9 DATED this 13th day of December, 2019.  
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12

13 Thomas S. Zilly  
14 United States District Judge

15 **PRESENTED BY:**

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Eliot M. Harris, WSBA No. 36590  
17 s/ Erin J. Varriano  
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8 *2017*

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